

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

UNITED STATES OF AMERICA,

v.

ALI SADR HASHEMI NEJAD,

Defendant.

Case No. 18 Cr. 224 (ALC)

JOINT STATUS REPORT

Pursuant to the Court's Order dated October 16, 2018, the Parties submit this joint status report.

The filter team at the U.S. Attorney's Office (the "USAO Filter Team") has continued to work with counsel for defendant Ali Sadr Hashemi Nejad ("Sadr") in order to address and fix the technical issues previously identified by Sadr. *See* ECF Nos. 49, 52, 66, 67. The USAO Filter Team obtained from the New York County District Attorney's Office ("DANY") filter team (the "DANY Filter Team") two sets of data: (1) the raw, original email search warrant returns for the defendant's email accounts, which DANY had obtained from the service providers pursuant to search warrants and which do not have Bates numbers (the "Raw Returns"); and (2) those Raw Returns as processed and Bates numbered by the DANY Filter Team (the "DANY Processed Returns"), both of which have been produced to Sadr. As set forth in the Court's Order dated October 16, 2018, describing the privilege review plan (the "Order"), the USAO Filter Team then began to load both sets of data onto the USAO Relativity database.

After the two sets of data had finished loading to the USAO Relativity database, on November 6, 2018, the USAO Filter Team began to examine the DANY Processed Returns and learned that the DANY Filter Team's processing errors had in fact caused many of the technical problems set forth in Sadr's prior submissions and were still causing technical problems. In contrast, the Raw Returns that had been processed and also loaded onto the USAO's Relativity database (the "USAO Processed Returns") did not appear to have any of the technical issues. The USAO Filter Team was also able to "de-dupe" the Raw Returns decreasing the document count from 413,940 in the DANY Processed Returns to 138,851 total documents in the USAO Processed Returns (82,892 emails, 28,642 email attachments, and 27,317 stand-alone e-documents).

After carefully examining the two sets of data and conferring with its technical experts, the USAO Filter Team concluded that the technical issues with the DANY Processed Returns could not be repaired. Accordingly, the USAO Filter Team proposed (a) conducting the privilege review using the USAO Processed Returns, and (b) producing the USAO Processed Returns, as Bates-numbered Relativity load files, to Sadr, which the USAO Filter Team is doing today.

Sadr has notified the Government that without an automated or technical method of cross-referencing the DANY Processed Returns and the USAO Processed Returns, he will have to redo the tagging of over 20,000 documents in the DANY Processed Returns since late September 2018.¹ In response to Sadr's concerns, the USAO Filter Team has agreed to work

¹"Tagging" means categorizing documents and taking notes on their contents or potential role in the case. Tagging aids counsel in learning the facts of the case and preparing for trial. Tagging

expeditiously to provide Sadr with a method to cross-reference all of the Bates-numbered files within the DANY Processed Returns to their corresponding files within the USAO Processed Returns, which have different Bates numbers than the earlier discovery provided. If the USAO Filter Team is unable, however, to cross-reference the Bates-numbered DANY Processed Returns with the USAO Processed Returns using an automated or technical process, a more time-consuming manual search effort will be required.

In addition to addressing the technical issues, as set forth in the Order, the USAO Filter Team, with the assistance of defense counsel, has developed a set of privilege search terms for use in the privilege review process. The USAO Filter Team applied those search terms to the USAO Processed Returns and separated the emails into three groups. The first group is comprised of the 123,690 documents that did not hit on any of the privilege terms agreed upon by the parties. The second group is the 13,853 documents that hit on at least one of the agreed-upon privilege terms. The final group of documents is the 1,308 documents that are potentially confidential spousal communications. The privilege review is ongoing.

The Parties propose that they will update the Court regarding these issues within two weeks, on or before November 29, 2018. Depending on the outcome of the ongoing technical issues described above, Sadr reserves the right to seek relief from the Court, including any

requires stable Bates numbers because information about any given document is associated with that document's Bates number.

continuance that may be required to enable Sadr to redo the trial preparation work he has performed on the DANY Processed Returns.

Respectfully submitted,

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